

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

KYRA MUELLER,

Plaintiff,

v.

Case No. 15-cv-1318

**LIBERTY LIFE ASSURANCE COMPANY
OF BOSTON and WELLS FARGO & COMPANY
SHORT-TERM DISABILITY PLAN,
Defendants.**

ORDER

Plaintiff Kyra Mueller filed this action alleging violations of the Employee Retirement Income Security Act ("ERISA"). Originally, she named Liberty Mutual Group as the defendant, but in a telephonic status conference on December 29, 2015, Liberty Mutual asserted that it was not the proper defendant, and I gave plaintiff 30 days to amend her complaint. On January 12, 2016, she filed a motion to amend her complaint naming Liberty Mutual Group, Liberty Life Assurance Company of Boston, and Wells Fargo & Company as defendants. Liberty Mutual opposed that motion, arguing that plaintiff had still not named the proper defendants. I agreed and denied plaintiff's motion to amend on March 1, 2016, again giving plaintiff 30 days to amend. On March 30, 2016, plaintiff filed an amended complaint, this time naming Liberty Life Assurance Company of Boston and Wells Fargo & Company Short-Term Disability Plan. Liberty Mutual, the only defendant to have been served and to appear in this action thus far, was dropped as a defendant, and therefore does not object to the amendment of the complaint. I will grant plaintiff's motion to amend and order the clerk to file the amended

complaint. I note that my granting this motion, however, does not preclude the newly-named defendants from opposing the amended complaint.

Liberty Mutual, although no longer a party, also points out that plaintiff has failed to follow Fed. R. Civ. P. 4(a) in drafting her summons. Because Liberty Mutual no longer has standing to object to the form of the summons, I will not address this issue now. However, I caution plaintiff to ensure that her summons complies with Rule 4(a) prior to service on the newly-named defendants.

THEREFORE, IT IS ORDERED that plaintiff's second motion to amend/correct complaint (ECF No. 15) is **GRANTED**. The Clerk shall file the amended complaint (found at ECF No. 15-2).

Dated at Milwaukee, Wisconsin, this 15th day of April, 2016.

s/ Lynn Adelman

LYNN ADELMAN
District Judge